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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

MIKAEL TAVIT,

Defendant and Appellant.

B238090

(Los Angeles County
Super. Ct. No. BA268702)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Henry J. Hall, Judge. Affirmed in part, reversed in part, and remanded.

Richard L. Fitzer, under appointment by the Court of Appeal, for Defendant
and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant
Attorney General, Lance E. Winters, Assistant Attorney General, Stephanie A.
Miyoshi and Nima Razfar, Deputy Attorneys General, for Plaintiff and
Respondent.

INTRODUCTION

Defendant and appellant Mikael Tavit appeals from a judgment of conviction following his entry of a guilty plea on the charge of transportation of a controlled substance. Tavit contends, and the People concede, that the trial court erroneously assessed him \$500 in attorney fees without affording him notice or a hearing under Penal Code section 987.8, subdivision (b) (section 987.8). We thus reverse and remand the matter to the trial court so that it may comply with the notice and hearing provisions of section 987.8.

PROCEDURAL AND FACTUAL BACKGROUND

Because the issue presented by this case does not turn on the facts of the offense, we simply note that Tavit was convicted of transporting a controlled substance (Health & Saf. Code, § 11379, subd. (a)), and was sentenced to county jail for two years. Tavit was represented by a public defender.

At sentencing, the trial court stated, “I don’t believe that Mr. Tavit is indigent as that term is used in this context, and I’m going to assess him \$500 of attorney fees.” Tavit was not afforded notice or the opportunity to be heard on the issue whether he had the present ability to pay this amount.

Tavit timely appealed.

DISCUSSION

On appeal, Tavit raises only one issue: the propriety of the trial court’s order that he pay \$500 for attorney fees, after he was appointed a public defender who represented him in the trial court proceedings. He contends the attorney fees order was improper because he did not receive notice and a hearing as required by section 987.8, subdivision (b).

Section 987.8, subdivision (b) provides in pertinent part: “In any case in which a defendant is provided legal assistance, either through the public defender or private counsel appointed by the court, upon conclusion of the criminal proceedings in the trial court, . . . the court may, after notice and a hearing, make a determination of the present ability of the defendant to pay all or a portion of the cost thereof.” The People concede the record does not indicate Tavit received the statutorily required notice and hearing concerning his ability to pay the attorney fees. We agree that the order must be reversed and the matter remanded to the trial court so that it can “provide the notice and conduct the hearing required by the statute.” (*People v. Flores* (2003) 30 Cal.4th 1059, 1061.)

DISPOSITION

The order directing Tavit to pay \$500 in attorney fees is reversed and the matter is remanded to the trial court for notice and a hearing under section 987.8, subdivision (b) concerning Tavit’s ability to pay attorney fees. In all other respects, the judgment is affirmed.

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WILLHITE, J.

We concur:

EPSTEIN, P. J.

SUZUKAWA, J.